THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24815 of 2006

Date: 29.11.2006

Between:

S.K. Shareef, Ex-Conductor, aged about 55 years, APSRTC, Narasaraopet, Guntur District.

.... PETITIONER

AND

A.P.S.R.T.C., rep. by its Vice-Chairman and Managing Director, Musheerabad, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24815 of 2006

Order:

Questioning the action of the respondents-Corporation in not paying the gratuity amount from the date of his suspension i.e., 14.09.1981 till his reinstatement, the petitioner filed the present writ petition.

2. The petitioner was appointed as Conductor in the respondents-Corporation in the year 1980. While working as such, he was issued a charge sheet-cum-suspension order dated 14.09.1981 alleging certain cash and ticket irregularities, for which he submitted his explanation denying the said charges. Thereafter, an enquiry was conducted, and based on the enquiry report submitted by the enquiry officer, the petitioner was removed from service, by order dated 12.12.1981, which was confirmed in review, by order dated 10.11.1983. Aggrieved by the same, the petitioner raised an industrial dispute in I.D. No. 99 of 1984, and the Labour Court, vide award dated 28.02.1985, set aside the removal order passed against the petitioner and directed the respondents-Corporation to reinstate the petitioner into service with all other attendant benefits, but without back wages. Pursuant to the said award of the Labour Court, the petitioner was reinstated into service, and on attaining the age of superannuation he retired from service. Now the grievance of the petitioner is that in spite of the said award of the Labour Court, the respondents-Corporation are not counting his service from the date of his suspension i.e., 14.09.1981 till the date of reinstatement for payment of gratuity, and in support of his contention that when the Labour Court awards continuity of service and all attendant benefits, the

respondents-Corporation have to pay gratuity by counting his entire service, he relied on the orders of this Court passed in W.P. No. 4407 of 2006, dated 16.10.2006, which order was passed based on a judgment of this Court in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC***[1].

3. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

4. This Court, in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC*** (1 supra), considered similar issue and held that if the Labour Court awards continuity of service and all attendant benefits, the workman is entitled to get gratuity for the period he is out of employment also. In the instant case also, the Labour Court directed the respondents-Corporation to reinstate the petitioner into service with all attendant benefits but without backwages. However, admittedly, the petitioner, except filing copy of the award of the Labour Court, has not made any representation requesting the respondents-Corporation for payment of gratuity amount by counting his entire service. The petitioner, without approaching the respondents-Corporation, has straight away approached this Court and filed the present writ petition relying on the judgment of this Court in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC*** (1 supra). In the circumstances, I deem it appropriate to dispose of the writ petition with the following directions:

5. The petitioner is directed to approach the respondents-Corporation and submit a representation for payment of gratuity by counting his entire service, and on such representation being made, the respondents-Corporation shall consider the same and pass appropriate orders thereon in the light of the judgment of this Court in ***M. Rama Rao v. Asst. Traffic Manager, APSRTC*** (1 supra).

6. Accordingly, the writ petition is disposed of. No costs.

_____

N.V. RAMANA, J.

Date: 29.11.2006
NSR/GRR

---

[1] 1998 (3) ALD 76